or, if the contract price has been paid, then the full market value. See SEDGWICK ON DAM., 111, 1012, and cases there cited. According to a few cases, the rule of nominal damages and the consideration paid, is established. *Bain* v. *Fothergill*, L. R. 6 Ex. 59, L. R. 7 H. L. 158; *Buck* v. *Serrill*, 80 Pa. St. 413; *McCafferty* v. *Griswold*, 99 Pa. St. 270. According to the decisions of Virginia this case is correctly decided, but it is contrary to the weight of authority in the United States. Upon principle it is weak in that it allows the vendor to break his contract with impunity. The property having risen in value, he refuses to perform his contract, and this rule does not give any value to that contract in favor of the vendee. Should the property fall in value, the vendor can still hold the vendee. The effect of the rule is unjust,

ELECTIONS— MINORITY REPRESENTATION — CONSTITUTIONALITY OF STATUTE.—A statute establishing boards of excise commissioners for New Jersey cities provided that the boards should consist of five members, not more than three of whom should belong to the same political party; that at the election no voter should vote for more than three candidates, the five receiving the highest number of votes to be declared elected. In an action of quo quarranto against the commissioners elected under the act, *Held*, that the statute was unconstitutional. *State, ex. rel. Bowden* v. *Bedell* (1902), — N. J. L. —, 53 Atl. Rep. 198.

The provision of the New Jersey constitution held by the court to be contravened by the act is the one providing that qualified voters "shall be entitled to vote for all officers." This the court construed to guarantee to every voter the right to vote for every candidate, relying upon *McArdle* v. *Jersey City* (1901), 66 N. J. L. 590, 49 Atl. 1013, holding a like statute unconstitutional. The first of the few so-called "minority representation" cases arose in Ohio where a similar act was held to violate the provision that all qualified voters "shall be entitled to vote at all elections," from which the court implied the right of every voter to vote for every officer to be elected. *State* v. *Constantine* (1884), 42 Ohio St. 437, 51 Am. Rep. 833, 9 Am. & Eng. Corp. Cas. 33; contra, *Commonwealth* v. *Reeder* (1895), 171 Pa. St. 505, 33 At. Rep. 67, 33 L. R. A. 141, 37 Wkly. Notes Cas. 121. The Pennsylvania case, however, is much weakened by able dissenting opinions by Sterret, C. J., and Williams, J., and by the fact that the decision was based largely upon the historical reason that early statutes of a similar nature had never been attacked in that state. The New York courts have so far avoided the question by disposing of cases that have arisen, upon other grounds. *People* v. *Kenny* (1884), 96 N. Y. 294, 7 Am. & Eng. Corp. Cas. 677; *People* v. *Crissey* (1883), 91 N. Y. 616. See also *State* v. *Wrightson* (1893), 56 N. J. L. 126, 28 At. Rep. 56. And attempts to establish the system of cumulative voting have also failed. *Maynard* v. *Board of Canvassers* (1890), 84 Mich. 228, 47 N. W. 756, 11 L. R. A. 332; citing and approving *State* v. *Constantine*. But an Illinois statute giving the voter an option to cumulate his vote in certain local elections was upheld. *People* v. *Nelson* (1890), 133 Ill., 565, 27 N. E. 217. The entire question seems to be one for constitutional regulation. MCCRARY ON ELECTIONS (4th. ed.) sec. 212; FOSTER ON CONSTITUTION, vol. 1, 343. And the election of state representatives has been so regulated in Illinois.

The court in the principal case, although declining to pass thereon, express grave doubts as to the validity of the provision that not more than three members should belong to the same party, citing *Attorney General* v. *Board of Councilmen* (1885), 58 Mich. 213, 24 N. W. 887, 55 Am. Rep. 675, 9 Am. & Eng. Corp. Cas. 18; *Evansville* v. *State* (1888), 118 Ind. 426, 21 N. E. 267, 4 L. R. A. 93; *Mayor, etc., Baltimore* v. *State* (1859), 15 Md. 376, 74 Am. Dec. 572. These cases hardly support the doubts of the court. All

involve statutes providing that appointments should be equally distributed between followers of the two leading parties. That such statutes make political belief and party affiliation a qualification for office, and are hence invalid, is settled. MECHEM, PUBLIC OFFICERS, sec. 98; *People* v. *Hurlbut* (1871), 24 Mich. 44, 9 Am. Rep. 103; *Rathbone* v. *Wirth* (1896), 150 N. Y. 459, 45 N. E. 15, 34 L. R. A. 408; Am. & Eng. Enc. of Law, (1st ed.) Pub. Officers, 398-399; *State* v. *Denny* (1889), 118 Ind. 382, 21 N. E. 252, 4 L. R. A. 65. Under the clause in question, party adhesion is in no sense made a qualification for office. The statute does not require that three shall be taken from one party, or that any of the commissioners must have any party affiliations whatever. *Rogers* v. *Common Council of Buffalo* (1890), 123 N. Y. 173, 9 L. R. A. 579, 25 N. E. 274, 22 Abb. N. C. 144, 3 N. Y. Supp. 671,34 Am. & Eng. Corp, Cas. 293. But, in the absence of such a clause as the one declared unconstitutional in the principal case, it is difficult to imagine such a provision in practical operation at a general election.

EQUITY—MISTAKE OF LAW—RECOVERY OF MONEY PAID FOR IMPROVEMENTS ON ANOTHER'S LAND.—The owner of a life estate, *per autre vie*, died intestate leaving a widow and several children. The parties, believing the widow was entitled to dower in the estate, allowed her one-third of the rents, and she paid one-third of the expense of certain extensive repairs. After several years, it was discovered that under the terms of an old will under which the intestate took, his widow could not have dower. All parties had been familiar with the provisions of the will, but ignorant of its legal effect. As she cannot take dower, the widow seeks an accounting in equity for payments made for improvements. *Held*, that complainant was not entitled to relief. Payments were made under a mutual mistake of law. This, in the absence of fraud, misrepresentation or undue influence, will not entitle complainant to a decree. *Olney* v. *Weaver* (1902), — R. I. —, 53 Atl. Rep. 287.

Many of the questions that arise upon an application to the courts for relief on the ground of mistake in law, are "left in great confusion in the books:" Mitchell J. in *Erkens* v. *Nicolin*, 39 Minn. 461, 40 N. W. 567; and the statement has been made on the authority of *Bank of U. S.* v. *Daniel*, 12 Peters 32, that "the jurisdiction of chancery in giving relief founded on mistake in law, is one grounded upon exceptions, rather than upon fixed rules." See note to *Lawrence* v. *Beaubien*, (S. C.) 23 Am. Dec. 155. It is believed, however, that widely variant facts and circumstances in the cases before the courts have led to much of this apparent conflict and confusion. It seems well settled that mistake as to a general rule of law is no ground for relief either at law or in equity. *Hunt* v. *Rousmanier*, 8 Wheat. 174, 1 Pet. 1. This is put upon the ground of policy and necessity in order that there may be certainty and security as to legal rights. *Champlin* v. *Laytin*, 18 Wend. 407. But where a person is mistaken as to his previous and existing rights, interests or estate, and enters into a transaction, the legal scope of which he correctly understands, for the purpose of affecting such assumed rights, interests, or estates, equity will grant its relief, treating it as a mistake of law analagous to a mistake of fact. *Renard* v. *Clink et al.*, 91 Mich. 1, 51 N. W. 692; *Blakeman* v. *Blakeman*, 39 Conn. 320; *Hearst* v. *Pujol*, 44 Cal. 230; *Macknet* v. *Macknet*, 29 N. J. Eq. 54; *Morgan* v. *Dod*, 3 Colo. 551; *Landsdowne* v. *Landsdowne*, 2 Jac. & W. 205; *Cooper* v. *Phibbs*, L. R. 2 H. L. Cases 149; 2 POMEROY'S EQUITY JURIS., sec. 849. Under the above rule, the decision in the principal case would seem to be erroneous, unless there is force in the rule, stated as an exception to the above, that—"Money paid under mistake of law, with full knowledge of the facts, and without fraud, cannot be recovered at law or in equity." This would,